

CALIFORNIA ENERGY COMMISSION1516 NINTH STREET
SACRAMENTO, CA 95814-5512

STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)	Docket 02-SIT-1
)	
RULEMAKING TO MODIFY)	NOTICE OF ENERGY AND
RULES OF PRACTICE AND)	INFRASTRUCTURE AND LICENSING
PROCEDURE FOR POWERPLANT)	COMMITTEE WORKSHOP TO DISCUSS
APPLICATIONS)	POSSIBLE AMENDMENTS TO THE
_____)	REGULATIONS

On February 27, 2002, the California Energy Commission (Commission) adopted an Order Instituting Rulemaking to review and revise the Commission's regulations implementing site certification and related processes, the informational requirements pursuant to Public Resources Code Section 25520, and the small power plant exemption process pursuant to Public Resources Code Section 25541. The site certification processes include the 12-month application for certification process pursuant to Public Resources Code Sections 25540.2 and 25540.6, and the six-month application for certification process pursuant to Public Resources Code Section 25550.

The Energy and Infrastructure and Licensing Committee has scheduled this workshop to receive comments on possible modifications to California Code of Regulations, title 20, Section 1230 et seq., regarding complaints and investigations, and Section 1720.3 regarding construction deadlines. Copies of these amendments to the regulations are attached to this notice. The workshop will be conducted as follows:

Wednesday, May 1, 2002
Beginning at 9:00 a.m. to 12:00 p.m.

California Energy Commission
1516 Ninth Street
Hearing Room A
Sacramento, CA
(wheelchair accessible)

The Committee would prefer to receive written comments by May 1, 2002, but comments may be submitted by e-mail or postal mail up to 5:00 p.m. on ~~May 8, 2002~~ May 15, 2002. Send written comments (original and eleven copies) to:

Docket Unit
California Energy Commission
Docket No. 02-SIT-1
1516 9th Street, MS-4
Sacramento, CA 95814-5512
Or e-mail them to: DOCKET@energy.state.ca.us
Or fax them to Dockets at (916) 654-4354

- If you want information about or assistance in participating in this or other Energy Commission proceedings, please contact Roberta Mendonca, the Commission's Public Adviser, at (916) 654-4489, toll-free in California at (800) 822-6228, or by e-mail at pao@energy.state.ca.us.
- If you require special accommodations at the workshop, please contact Lou Quiroz at (916) 654-5146, or by e-mail at lquiroz@energy.state.ca.us at least five days before the workshop.
- If you have questions regarding this notice, please contact Richard Buell at (916) 653-1614, or by e-mail at rbuell@energy.state.ca.us. Information on this proceeding and notices for future workshops or hearings can be found on the Energy Commission's website <www.energy.ca.gov/siting/rulemaking>.
- News media inquiries should be directed to Assistant Director, Claudia Chandler, at (916) 654-4989, or by e-mail at cchandle@energy.state.ca.us.

ROBERT A. LAURIE
Commissioner and Presiding Member
Energy and Infrastructure and
Licensing Committee

ROBERT PERNELL
Commissioner and Associate Member
Energy and Infrastructure and
Licensing Committee

Mailing List: #773

Article 4. Complaints and Investigations

§ 1230. Scope.

(a) Informal complaint proceedings shall include any process in which the commission staff conducts a review of an alleged noncompliance with a commission decision adopted pursuant to Section 25500 and following of the Public Resources Code. Formal complaint proceedings shall include any adjudicatory proceeding in which the commission determines whether to sanction, or take other appropriate action against, a person for an alleged violation of any statute, order, decision, or regulation adopted, administered, or enforced by the commission, including but not limited to a proceeding pursuant to Public Resources Code Section 25534.1. Investigation proceedings shall include any adjudicatory proceeding in which the commission determines the applicability of any statute, order, decision, or regulation adopted, administered, or enforced by the commission. A single proceeding may involve both a complaint and an investigation.

(b) Standing committees to exercise the formal complaint or investigatory functions of the commission may be established pursuant to Section 1204(a). The order establishing a committee shall designate the area of commission jurisdiction over which a committee shall exercise the complaint or investigatory function.

NOTE: Authority cited: Sections 25213, 25218(e), and 25539, Public Resources Code. Reference: Section 11180, Government Code; and Sections 25210, 25362(a), 25362(b), ~~25451, 25452~~, 25500, 25534, 25534.1, 25900, 25967, and 25983, Public Resources Code.

§ 1230.5 Informal Complaints

(a) Prior to filing a formal complaint alleging noncompliance with a commission decision adopted pursuant to Public Resources Code Section 25500 and following, any individual, group, or agency, with the exception of commission staff, must file an informal complaint. All informal complaints shall be made or forwarded to the designated compliance project manager.

(b) Upon completion of the review of the alleged noncompliance, commission staff shall issue a report setting forth its determination. The report shall be issued no later than 60 days after the receipt by the designated compliance project manager of the informal complaint. A complainant, other than commission staff, may not file a formal complaint on the same matter until this report is issued.

(c) If either the project owner or the complainant is not satisfied with the results of the review, they may file a formal complaint or request for investigation as specified under Section 1231 of these regulations.

NOTE: Authority cited: Sections ...

§ 1231. Formal Complaints and Requests for Investigation; Filing.

Any person, including but not limited to the commission staff or the owner or operator of a powerplant or transmission line, may file a formal complaint alleging a violation of a statute, regulation, order, program, or decision adopted, administered, or enforced by the commission. Any

person may also file a request for investigation, including a request for a jurisdictional determination regarding a proposed or existing site and related facilities.

(a) A formal complaint or request for investigation shall be filed with the General Counsel of the commission.

(b) The complaint or request for investigation shall include:

(1) the name, address, and telephone number of the person filing the complaint (complainant) or request for investigation (petitioner);

(2) the name, address, and telephone number of the person allegedly violating the statute, regulation, order, or decision (respondent) or, in the case of a request for a jurisdictional investigation, the name, address, and telephone number of the person owning or operating, or proposing to own or operate, the project which is the subject of the request for investigation (respondent);

(3) a statement of the facts upon which the complaint or request for investigation is based;

(4) a statement indicating the statute, regulation, order, or decision upon which the complaint or request for investigation is based;

(5) the action the complainant or petitioner desires the commission to take;

(6) the authority under which the commission may take the action requested;

(7) a statement by the complainant or petitioner specifically listing the names and addresses of any other individuals, organizations, and businesses which the complainant or petitioner knows or has reason to believe would be affected by the relief sought;

(8) if the complainant is other than commission staff, a statement asserting that the matter has already been brought to the staff for informal resolution and staff has completed its review;

(9) if the complainant is other than commission staff, the final report issued by staff addressing the informal complaint; and

~~(8)~~(10) a declaration under penalty of perjury by the complainant or petitioner attesting to the truth and accuracy of any factual allegations contained in the complaint or request for investigation. If any of the applicants are corporations or business associations, the declaration shall be dated, signed, and attested to by an officer thereof. Where a declaration is filed on behalf of a joint venture or proposed joint venture, all members of the joint venture or proposed joint venture shall date, sign, and attest to the declaration.

NOTE: Authority cited: Sections 25213, 25218(e), and 25539, Public Resources Code.
Reference: Section 11180, Government Code; Sections 25210, 25362(a), 25362(b), 25451, 25452, 25500, 25534, 25900, 25967, and 25983, Public Resources Code.

§ 1232. Hearing and Notice Procedures.

(a) Within 30 days after the receipt by the General Counsel of a formal complaint or request for investigation, the committee, or if none has been assigned, the chairman, shall:

(1) dismiss the matter upon a determination of insufficiency or lack of merit of the pleadings, specifying whether the dismissal is with or without prejudice; or

(2) serve the complaint or request for investigation upon the respondent and all other persons identified in Section 1231(b)(7) and schedule a hearing upon the formal complaint or request for investigation. The hearing shall be scheduled to commence within 90 days after the receipt by the General Counsel of the formal complaint or request for investigation. The hearing may be scheduled before the full commission, the committee, or a hearing officer assigned by the chairman at the request of the committee as provided in Section 1205.

(b) Notice, by certified mail, return receipt requested, of formal complaint or investigatory proceedings shall be given to all petitioners, respondents and persons identified in Section 1231(b)(7) no fewer than 21 days before the first hearing on the matter. In addition, the committee, or if none has been assigned the chairman, may take additional steps to notify other individuals, organizations, and businesses which the committee or the chairman has reason to believe would be adversely affected by a decision.

(c) The notice shall contain:

(1) the names and addresses of all named complainants, petitioners, and respondents;

(2) a statement concerning the nature of the formal complaint or request for investigation, with an identification of the statute, regulation, order, or decision at issue;

(3) an explanation of the action the commission may take;

(4) the date, place, and time of the first hearing in the matter; and

(5) a statement concerning the availability of the public adviser.

NOTE: Authority cited: Sections 25213, 25218(e), 25539, Public Resources Code. Reference: Section 11180, Government Code; Sections 25210, 25362(a), 25362(b), 25451, 25452, 25500, 25534, 25900, 25967 and 25983, Public Resources Code.

§ 1233. Answers to Formal Complaints and Requests for Investigation

(a) The respondent shall file and serve an answer with the complainant or petitioner, the commission, and all persons identified in Section 1231(b)(7) or 1232(b) within 30 days after service of the formal complaint or request for investigation pursuant to Section 1232(a)(2).

(b) The answer shall include:

(1) an admission or denial of each material allegation;

- (2) an explanation of any defenses raised by the respondent; and
- (3) a declaration as provided in Section 1231(b)(8).

(c) Where the petitioner seeks clarification of the jurisdictional status of its own project, no answer shall be required.

NOTE: Authority cited: Sections 25213, 25218(e), and 25539, Public Resources Code.
Reference: Section 11180, Government Code; Sections 25210, 25362(a), 25362(b), 25451, 25452, 25500, 25534, 25900, 25967, and 25983, Public Resources Code.

§ 1234. Proposed Decision.

(a) If the matter is heard before an assigned committee or hearing officer, appointed pursuant to Section 1205, the committee or hearing officer shall make its recommendation to the full commission in the form of a written proposed decision.

(b) To the extent reasonably possible, the proposed decision shall be made available within 14 days following the close of hearings held pursuant to Section 1232.

(c) The proposed decision shall contain an explanation and analysis of the facts and issues involved in the case, and recommendations for disposition by the full commission. The committee or hearing officer shall serve a copy of the proposed decision upon all parties to the hearings on the matter and shall schedule the matter for consideration by the full commission at the earliest reasonable date, but in no event sooner than 10 days after service of the proposed decision.

NOTE: Authority cited: Section 25213, Public Resources Code. Reference: Section 25210, Public Resources Code.

§ 1235. Public Participation and Intervention.

To the extent deemed relevant by the presiding member, any person may testify or comment during a formal complaint or investigatory hearing. A person may become a formal party by intervening pursuant to Section 1207.

NOTE: Authority cited: Section 25213, Public Resources Code. Reference: Section 25214, Public Resources Code.

§ 1236. Commission Decision.

(a) Upon consideration of a proposed decision from a committee or hearing officer, the commission shall:

- (1) adopt, modify, or reject the proposed decision; or
- (2) remand the matter to the committee or hearing officer for further hearings; or
- (3) reopen the evidentiary record and itself conduct further hearings.

(b) When considering a proposed decision from a committee or hearing officer, the commission may limit presentations by all participants to written and oral submissions based upon the existing evidentiary record.

NOTE: Authority cited: Section 25213, Public Resources Code. Reference: Section 25210, Public Resources Code.

§ 1720.3. Construction and Operation Deadlines.

(a) The deadline for the commencement of construction installation of concrete foundations for major project structures shall be five-two years after the effective date of the decision. No later than 90 days prior Prior to the deadline, the applicant project owner may request an extension of the deadline for up to one additional year. The request shall include:

(1) the applicant's reasons for making the request and a discussion of why the original deadline could not be met;

(2) a schedule showing how the applicant will comply with the deadline if the requested extension is granted;

(3) an assessment of whether the project conforms with applicable laws, ordinances or standards in effect at the time of the request; and

(4) an assessment of whether the project may result in any significant environmental impacts or electrical system reliability or congestion impacts not foreseen at the time of initial approval of the project.

(b) and the The commission may order; an extension of the deadline for good cause and may amend the conditions of certification to ensure the project's conformance with applicable laws, ordinances and standards and to ensure that significant impacts of the project are mitigated.

(c) The deadline for the commencement of commercial operation shall be two years from installation of concrete foundations for major project structures. Prior to the deadline, the project owner may request, and the commission may order, an extension of the deadline for good cause.

NOTE: Authority cited: Sections 25213, 25218(e) and 25541.5, Public Resources Code.
Reference: Sections 25210, 25216.5, and 25519(b), Public Resources Code.